

March 8, 2007
Talking Points on Exceptional Events Rule

Q: What is the definition of an exceptional event under section 319 as revised by SAFE-TEA-LU?

A: Section 319 defines an exceptional event as an event that:

- Affects air quality.
- Is not reasonably controllable or preventable.
- Is an event that is caused by human activity that is unlikely to recur at a particular location, or is a natural event; and
- Is determined by the Administrator through the process established in the rule to be an exceptional event.

Q: What are the key requirements of SAFE-TEA-LU?

A: The key requirements of SAFE-TEA-LU are the following:

- An exceptional event must be demonstrated by reliable and accurate data.
- The State must show that there is a “clear causal relationship” between the NAAQS exceedances and the event in question.
- There must be a public review process related to an exceptional event determination.
- The rule must set criteria and procedures for States to petition EPA to exclude data affected by exceptional events.

Q: What pollutants does the rule apply to?

A: The rule applies to all pollutants for which a NAAQS provides discretion to discount or exclude data. At present, the rule would apply to PM and Ozone. Other pollutants will be considered for application to the rule as the NAAQS for these pollutants are reviewed.

Q: Under the rule when can data be excluded?

A: Under the rule data can be excluded that has been flagged by the State as an exceptional event, when there is sufficient demonstration that the event occurred and that it affected air quality in such a way as to cause an exceedance or violation of a NAAQS.

In addition, a daily value is only eligible for exclusion if a State can show that an exceedance of the NAAQS would not have occurred “but for” the influence of the exceptional event in question.

Q: What are the time lines for flagging data and submitting demonstrations related to an exceptional event under the rule?

A: In terms of flagging data that has been affected by an exceptional event, the rule requires that all flags be reported to EPA prior to July 1st of the year following the event.

The rule states that States must submit full demonstrations to EPA concerning exceptional events within 3 years following the occurrence of the event in question to support annual average determinations. However, demonstrations must be submitted no later than 12 months prior to any nonattainment decisions for an area, or other regulatory requirement. The rule requires States to submit full documentation concerning exceptional events annually, and by July 1st, for exceedances of the short term NAAQS.

The rule states that where there are special regulatory circumstances States may be required to submit flags and documentation related to exceptional events on an expedited schedule.

The rule also provides a special provision to allow States to flag data for calendar years 2004-2006 related to designations for the PM-2.5 standard that will occur in calendar year 2008.

Q: Does the rule require States to provide for mitigation related to exceptional events?

A: Yes, the rule provides that a State must provide for:

- Public notification of an event.
- Public education concerning an event.
- The implementation of reasonable and appropriate measures to protect public health related to an event.
- The requirements above are not linked to EPA's approval or disapproval of a State's request to have data excluded under the rule.
- States will also not be required to submit to EPA documentation of the mitigation actions that it took related to the event.

Q: How are emissions from fireworks displays treated under the rule?

A: The rule treats emissions from fireworks displays related to traditional national, ethnic, or other cultural events (e.g., 4th of July Celebrations, Chinese New Year Celebrations, etc...), similar to the way that exceptional events are treated under the rule.

Q: How does the Exceptional Events Rule treat emissions from fireworks?

A: Emissions from fireworks displays that are integral to traditional national, ethnic or cultural events such as July fourth or Chinese New Year celebrations may be treated like an exceptional event.

A state wishing to flag air quality monitoring data that has been influenced by emissions from fireworks displays must show that:

- The event affected air quality.
- The State must submit documentation which shows that there is a clear causal connection between the emissions from the fireworks event and the measurement at the monitor in question.
- EPA encourages States to take precautions to help minimize exposure of the public to emissions from fireworks displays including the use of lower emitting fireworks, and locating displays downwind of highly populated areas.

Q: How does the Exceptional Events Rule treat prescribed burning?

A: In cases where prescribed burning is needed to protect the natural ecosystem of an area, and there is no reasonable alternative means to reduce brush, fallen trees, and other fuel loading in the area, States may flag, and EPA may exclude the data from these types of prescribed fires as an "exceptional event" under the rule.

For emissions from these fires to be considered exceptional events, the State where the prescribed fire was started must certify that it has adopted and is implementing a Smoke Management Program (SMP), and that a smoke management plan was in place at the time of the event, or the State must ensure that the burner employed basic smoke management practices.

All other prescribed fires, that are not determined to be exceptional events, will continue to be addressed under the "Interim Air Quality Policy on Wildland and Prescribed Fire."

EPA's "Interim Air Quality Policy on Wildland and Prescribed Fire" provides guidance concerning what actions burners must take to protect air quality when conducting prescribed burns and provides the process that States must follow in order to have data excluded that has been influenced by emissions from prescribed burns. EPA has committed to work with interested Federal Agencies and other stakeholders to revise this policy within the next 16 months.

Q: How is EPA treating agricultural burning under the exceptional events rule?

A: EPA is not addressing the issue of agricultural burning under the exceptional events rule. However, EPA will address this issue following the promulgation of

the rule at the same time that it reviews the need to revise the “Interim Air Quality Policy on Wildland and Prescribed Fire” in the later part of calendar year 2007.